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ORDINANCE 10-25

Document Cross Reference No. _____

AN ORDINANCE OF THE CITY OF WESTFIELD CONCERNING AMENDMENT TO TITLE 16 – LAND USE CONTROLS

WHEREAS, The City of Westfield, Indiana and the Township of Washington, both of Hamilton County, Indiana are subject to the Westfield-Washington Township Zoning Ordinance, enacted by the City of Westfield under authority of Chapter 174 of the Acts of the Indiana General Assembly 1947, as amended;

WHEREAS, the Westfield-Washington Advisory Plan Commission (the “Commission”) considered a petition (Docket 1009-REZ-01), filed with the Commission requesting to rezone certain lands;

WHEREAS, on October 18, 2010, the Commission took action to forward Docket 1009-REZ-01 to the Westfield City Council with a unanimous favorable recommendation in accordance with Ind. Code 36-7-4-608, as required by Ind. Code 36-7-4-1505;

WHEREAS, on October 19, 2010, the Secretary of the Commission certified the action of the Commission to the City Council; and,

WHEREAS, the Westfield City Council is subject to the provisions of the Indiana Code IC 36-7-4-1507 and 36-7-4-1512 concerning any action on this request.

**NOW THEREFORE BE IT ORDAINED BY THE WESTFIELD CITY COUNCIL THAT
TITLE 16 OF THE WESTFIELD CODE OF ORDINANCES BE AMENDED AS
FOLLOWS:**

SECTION 1. WC 16-04 Zoning Map amended as follows:

The Zoning Map accompanying and made a part of the Westfield-Washington Township Zoning Ordinance is amended to reclassify the Real Estate described in what is attached hereto and incorporated herein by reference as Exhibit “A” from SF-5 to GB.

SECTION 2. This Ordinance shall be in full force and effect in accordance with Indiana law, upon the passage of any applicable waiting periods, all as provided by the laws of the State of Indiana. All ordinances or parts thereof that are in conflict herewith are hereby ordered. To the extent that this ordinance conflicts with the terms of any previously-adopted ordinance or part thereof, the terms of this ordinance shall prevail.

2010060818 ORDINANCE \$39.00
11/16/2010 01:11:28P 14 PGS
Jennifer J Hayden
HAMILTON County Recorder IN
Recorded as Presented



ALL OF WHICH IS HEREBY ADOPTED BY THE CITY COUNCIL OF WESTFIELD,
HAMILTON COUNTY, INDIANA THIS 8 DAY OF Nov 2010, 2010.

**WESTFIELD CITY COUNCIL
HAMILTON COUNTY, INDIANA**

Voting For

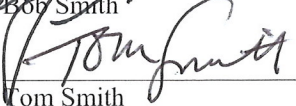

John Dippel

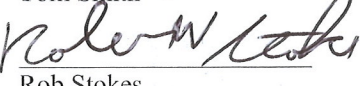

Steve Hoover


Robert Horkay


Kenneth Kingshill


Bob Smith


Tom Smith


Rob Stokes

Voting Against

John Dippel

Steve Hoover

Robert Horkay

Kenneth Kingshill

Bob Smith

Tom Smith

Rob Stokes

Abstain

John Dippel

Steve Hoover

Robert Horkay


Kenneth Kingshill

Bob Smith

Tom Smith

Rob Stokes

ATTEST:


Cindy Gossard, Clerk-Treasurer

I affirm, under the penalties of perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law: Kevin M. Todd


Prepared by: Kevin M. Todd, AICP, Senior Planner, City of Westfield
2728 East 171st Street, Westfield, IN 46074, (317) 804-3170.

"I affirm, under the penalties of perjury,
that I have taken reasonable care to redact
each Social Security Number in this
document, unless required by law"


Signed

I hereby certify that ORDINANCE 10-25 was delivered to the Mayor of Westfield

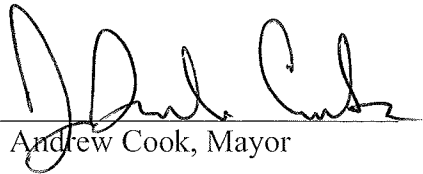
on the 9 day of Nov, 2010, at 9:37 a m.



Cindy Gossard, Clerk-Treasurer

I hereby APPROVE ORDINANCE 10-25

this 9 day of Nov., 2010.



J. Andrew Cook, Mayor

I hereby VETO ORDINANCE 10-25

this _____ day of _____, 2010.

J. Andrew Cook, Mayor

ATTEST:



Cindy Gossard, Clerk Treasurer

This document prepared by
Brian J. Zaiger, Esq.
KRIEG DEVAULT, LLP
(317) 238-6266

EXHIBIT A
Description of Real Estate

A part of the East Half of the Southwest Quarter of Section 31, Township 19 North, Range 3 East and parts of Lots 70 and 71 in John M. Corbin's Addition to the Town of Jolietville, Indiana, Hamilton County, more particularly described as follows: A part of the Southwest Quarter, Section 31, Township 19 North, Range 3 East, begin at a point 86.7 feet West of the Southeast Corner of the Southwest Quarter Section 31, Township 19 North, Range 3 East run thence North parallel with East line of said Quarter Section 49.3 feet; thence West parallel with South line of said Quarter Section 57.5 feet to center of driveway, thence North on center line of said drive parallel with East line of said Quarter Section 245.2 feet, thence West parallel with South line of said Quarter Section 158.9 feet, thence South parallel with said East line 92.8 feet, thence West parallel with South line of said Quarter Section 47.0 feet thence South 201.7 feet to a point on South line of said Quarter Section, said point being 257.3 feet West of place of beginning, thence East on said Quarter Section line 257.3 feet to place of beginning.



Westfield City Council Report

Ordinance Number: 10-25
APC Petition Number: 1009-REZ-01
Approximate Address: 4160 State Road 32 West
Petitioner: Daniel Delullo
Requested Action: Change in Zoning for approximately 1.3 acres from SF-5 to General Business (GB)
Current Zoning District: SF-5
Requested Zoning District: GB
Filing Date: August 2, 2010
Referral Date to APC: August 9, 2010
APC Public Hearing: September 7, 2010
APC Recommendation: October 18, 2010
Eligible for Adoption: November 8, 2010
Exhibits:
1. Staff Report
2. Aerial Location Map
3. Permitted Use List
Prepared By: Kevin M. Todd, AICP, *Senior Planner*

PETITION HISTORY

This petition for a change in zoning was filed on September 3, 2010. This petition received a public hearing and a unanimous positive recommendation for approval at the October 4, 2010 Advisory Plan Commission Meeting.

PROCEDURAL

- Requests for a change in zoning are required to be considered at a public hearing, in accordance with Ind. Code 36-7-4-1505.
- The Advisory Plan Commission held a public hearing on September 7, 2010 and issued a unanimous positive recommendation (9-0) to the City Council in support of the proposed change in zoning on October 18, 2010.
- Notification of the September 7, 2010 public hearing was provided in accordance with the Advisory Plan Commission Rules of Procedure.
- The Westfield City Council may take action on this item at the November 8, 2010 meeting.

PROJECT OVERVIEW

Project Description

The petitioner is the operator of an Italian restaurant, Delullo's Italian Bistro. The restaurant is a landmark in Jolietville and has most-recently been located at the southwest corner of State Road 32 and Joliet Road. The petitioner is seeking to move the restaurant across the street to a larger

site, which could accommodate off-street parking for the business. The subject property is located on the north side of State Road 32, just west of Joliet Road (the "Property"). It is currently residential in use. The plans call for converting the existing residential structure into a restaurant and constructing a new parking lot north of the building (the "Project").

The rezone petition includes a proposed list of uses for the Property. The proposal limits the GB use list by including uses which align with the Comprehensive Plan's vision for the village of Jolietville (see Exhibit 3 for Permitted Use List).

Comprehensive Plan (Feb 2007, as amended)

The Future Land Use Concept Map in the Westfield-Washington Township Comprehensive Plan (the "Comprehensive Plan") identifies the Property as being within the village of Jolietville. The Comprehensive Plan identifies "food and entertainment" as appropriate land uses within Jolietville. The proposed use of a restaurant is consistent with the Comprehensive Plan's recommendation for this area.

Thoroughfare Plan (Feb 2007, as amended)

The Westfield-Washington Township Thoroughfare Plan (the "Thoroughfare Plan") roadway classification map identifies State Road 32 as a "Primary Arterial", and recommends a minimum dedication of a seventy-five (75) foot half right-of-way.

Parks & Recreation Master Plan-Dec 2007

The Westfield Parks & Recreation Master Plan focuses on the build-out and development of the City's existing parks and trail systems. The Parks Master Plan does not have specific plans for this Property.

Water & Sewer System

The Property is not served by City of Westfield water or sewer facilities. Private well(s) and a commercial septic system will be required until public facilities become available.

Annexation

The Property is within the corporate boundaries of the City of Westfield.

Well Head Protection-Ord. 05-31

The Property is not within a wellhead protection area.

STATUTORY CONSIDERATIONS

Indiana Code 36-7-4-603 states that reasonable regard shall be paid to:

1. The Comprehensive Plan.

The Future Land Use Concept Map in the Westfield-Washington Township Comprehensive Plan (the "Comprehensive Plan") identifies the Property as being within the village of Jolietville. The Comprehensive Plan identifies "food and entertainment" as appropriate land uses within Jolietville. The proposed use of a restaurant is consistent with the Comprehensive Plan's recommendation for this area.

2. Current conditions and the character of current structures and uses.

The Property is currently residential. It is accessed by a private drive from State Road 32. The Property is improved with a detached single family residential structure and a detached garage.

3. The most desirable use for which the land is adapted.

The Comprehensive Plan identifies the potential for redevelopment to occur in the Jolietville area. Restaurants like Delullo's need visibility and passing traffic in order to be successful. The Property is located on State Road 32, which carries significant traffic in Washington Township.

4. The conservation of property values throughout the jurisdiction.

It is likely that property values throughout Washington Township will not be impacted by changing the zoning of the Property to General Business. Adjacent property, both to the east and south, is zoned for business uses. The Comprehensive Plan recommends this type of redevelopment to occur in Jolietville.

5. Responsible growth and development.

The petitioner has a need to relocate the business, and the opportunity to retain this existing Jolietville business is good economic development for the City of Westfield. Neighboring property to the east and to the south is zoned and used commercially. Public facilities such as water and sewer services are not yet to the area, but well and septic systems can serve the property until public facilities become available.

RECOMMENDATIONS / ACTIONS

- Community Development Department [October 18, 2010]
The Westfield Community Development Staff, in their report to the Advisory Plan Commission, made a favorable recommendation for this petition.
- Advisory Plan Commission [October 18, 2010]
The Westfield-Washington Advisory Plan Commission has forwarded a unanimous favorable recommendation for this petition (Vote of: 9-0).
- City Council
 - Introduction: [August 9, 2010]
 - Eligible for Adoption: [November 8, 2010]

Submitted by: Kevin M. Todd, AICP, *Senior Planner*



1009-REZ-01
08-05-31-03-01-015.000
4160 West SR 32
Exhibit 2



Aerial Location Map

 Site



4160 STATE ROAD 32 WEST
PERMITTED USE LIST

Commercial Businesses

Type of Business	Local Business	General Business	Uses Limited to the Following
Advertising and Business Signs, Fabrication		X	
Amphitheaters	X	X	
Antiques	X	X	X
Apartment Hotels, Motels, Hotels		X	
Art School	X	X	
Artisan School	X	X	
Assembly Halls	X	X	
Auction Rooms		X	
Auditoriums		X	
Auto Parts Sales		X	
Auto Rental		X	
Auto Sales, New or Used, Service and Repair		X	
Bakeries	X	X	X
Banks and Savings & Loan Assn.	X	X	
Barber and Beauty Schools	X	X	
Barber and Beauty Shops	X	X	X
Bicycle Sales, Rental & Service	X	X	X
Billiard Parlor		X	
Blueprinting, Photocopying Job Printing		X	
Boat and Trailer Sales & Service		SP. EX.	
Book Stores	X	X	X
Bowling Alley		X	
Business and Clerical Schools		X	
Bus Stations		X	
Camera Stores	X	X	X
Car Wash (Indoor)	SP. EX	X	
Caskets and Casket Supplies (Mortuary)		X	
Cemetery Monument Sales		X	
Charitable Donation Pick-Up Station	X	X	
Charitable Institutions		X	
China and Glassware Shops	X	X	X
Churches	X	X	
Civic Centers	X	X	
Civic Clubs	X	X	

**4160 STATE ROAD 32 WEST
PERMITTED USE LIST**

Coin Shops	X	X	X
Commercial Parking Lots and Structures, Public	X	X	
Commissary, Food Catering Serv.		X	X
Consumer Service Offices	X	X	
Credit Union Offices	X	X	
Custard Stands	X	X	X
Dancing Schools	X	X	
Delicatessen	X	X	X
Dentists	X	X	X
Department Stores— Under 10,000 Sq. Ft.	X	X	
Department Stores— Over 10,000 Sq. Ft.		X	
Discount Stores— Under 10,000 Sq. Ft.	X	X	
Discount Stores— Over 10,000 Sq. Ft.		X	
Drive-In Food and Beverage		X	
Drug Stores	X	X	
Dry Cleaning & Laundry Pickup	X	X	
Educational Institutions Public and Private	X	X	
Electrical Supply Store		X	
Embalming School		X	
Employment Agencies	X	X	X
Exhibition Halls	X	X	
Exterminators		X	
Fabric Shops	X	X	X
Farm Implement Sales & Service		X	
Feed Stores		X	
Fire Stations	X	X	X
Floor Coverings	X	X	
Florists	X	X	X
Frozen Food Stores & Lockers		X	
Fruit Stands, Permanent	X	X	X
Fruit Stands, Temporary	SP.EX.	X	X
Furniture Stores	X	X	
Furrier Shops	X	X	X
Galleries	X	X	X
Garden and Lawn Materials and Supply Stores	X	X	
Gasoline Service Station	SP.EX.	X	
General Construction Company		SP.EX.	
Gift Shops	X	X	X

4160 STATE ROAD 32 WEST
PERMITTED USE LIST

Government Offices-Universities	X	X	
Greenhouses, Retail		X	X
Grocery Stores	X	X	
Health, Fitness, and Exercise Center		X	
Hardware Stores	X	X	
Hobby Shops	X	X	X
Home Remodeling Company		X	
Home Remodeling Supplies and Materials		X	
Hospitals (Minor), Medical and Dental Clinics and Labs	X	X	
Insurance Companies	X	X	X
Interior Decorating	X	X	X
Jewelry Stores	X	X	X
Language Schools	X	X	X
Laundromats and Self-Service Dry Cleaning	X	X	X
Lawyers	X	X	X
Libraries	X	X	
Liquor Stores	SP.EX.	X	
Loan Offices	X	X	X
Locksmith Shops	X	X	X
Luggage Stores	X	X	
Mail Order Store	X	X	X
Major Appliance Store		X	
Millinery	X	X	
Miniature Golf, Archery, Driving Range, Trampoline Centers		X	
Mortuaries		X	
Motorcycle Sales, Service, Repair and Outdoor Display		X	
Museums	X	X	
Music, Records, Instruments	X	X	X
Music Schools	X	X	
Newspaper Distribution Station		X	
Newspaper Publishing		X	
Nursery - Plants, Retail	X	X	
Optometrists	X	X	X
Paint and Wallpaper Stores	X	X	X
Pet Grooming	X	X	X
Pet Obedience Schools		X	
Pet Shops	X	X	X
Philanthropic Institutions	X	X	

4160 STATE ROAD 32 WEST
PERMITTED USE LIST

Photography School	X	X	
Photography Studio	X	X	X
Photography Supplies	X	X	X
Physicians	X	X	X
Picture Framing	X	X	X
Plumbing Showrooms and Shop		X	
Police Stations	X	X	X
Post Offices	X	X	
Printing and Photocopying, Small Jobs	X	X	X
Professional & Technical Schools		X	
Radio and TV Service	X	X	
Real Estate Offices	X	X	X
Recycling Collection Systems			
Restaurants and Cafeterias Having More Than 50% of Gross Sales Derived From Food Sales Excluding Drive-Ins	X	X	X
Restaurants and Cafeterias Having Less Than 50% of Gross Sales Derived From Food Sales Excluding Drive-Ins	SP. EX.	X	X
Restaurants With Live Entertainment		X	X
Roller & Ice Skating Rinks		X	
Root Beer Stands		X	
Self Service Car Wash		X	
Semi Automatic Car Wash	SP.EX.	X	
Sewing Machine Sales & Service	X	X	X
Shoe Repair	X	X	X
Shoe Stores	X	X	X
Sporting Goods	X	X	X
Stationery Stores	X	X	X
Taylor or Seamstress	X	X	X
Tennis Facilities		X	
Theaters—Indoor		X	
Tire and Auto Service Center		X	
Tobacco Shops	X	X	X
Tool and Light Equipment Rental		X	
Toy Stores	X	X	X
Trailer Rentals		SP.EX.	
Travel Bureaus	X	X	X
Travel Trailer Sales & Rentals		SP.EX.	

**4160 STATE ROAD 32 WEST
PERMITTED USE LIST**

Typewriter Sales, Rental and Service	X	X	X
Upholsters	X	X	X
Veterinarians - Small Animals, No Outdoor Runs	X	X	X
Wearing Apparel & Accessory Shops	X		

Industrial Businesses

Type of Business	Local Business	General Business	4160 SR 32 West
Data Processing		X	X
Industrial Schools & Training Facilities		X	
Mfg. of Jewelry, with Retail	X	X	

Miscellaneous Businesses

Type of Business	Local Business	General Business	4160 SR 32 West
Amusement Parks		SP.EX.	
Boarding & Lodging Houses	X	X	
Christmas Tree Sales	X	X	
Convents, Monasteries, Theological Schools, Rectories, Parishes	SP.EX.	SP.EX.	
Fraternities, Lodges	X	X	
Day Care Centers	X	X	
Heliports		X	
Hospitals, Major		X	
Nursing Homes		SP EX	
Office Buildings - General Purpose	X	X	X
Private Clubs, Lodges	X	X	
Sanitariums		X	
Schools and Kindergartens	X	X	
Tennis & Swim Clubs		X	
Utilities-Regulated by Indiana Utility Regulatory Commission	SP.EX. - All Areas		SP.EX.
Utilities—Not Regulated by Indiana Utility Regulatory Commission	Permitted All Areas		

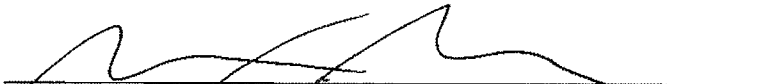
**WESTFIELD-WASHINGTON ADVISORY PLAN COMMISSION
CERTIFICATION**

The Westfield-Washington Advisory Plan Commission held a public hearing on Tuesday, September 7, 2010, to consider a change in zoning request for property located at 4160 State Road 32 West from the SF-5 District to the GB District. Notice of the public hearing was advertised and presented to the Advisory Plan Commission. Notice was shown to have been published in a newspaper of general circulation in Hamilton County, Indiana. The proposal is described as follows:

Case No.	1009-REZ-01
Petitioner	Daniel Delullo
Description	Petitioner requests a change in zoning for approximately 1.3 acres from SF-5 to General Business (GB)

On October 18, 2010, a motion was made and passed to send a unanimous favorable recommendation (9-0) to the Westfield City Council to approve the request for 1009-REZ-01.

The above-mentioned proposal and the Advisory Plan Commission's recommendation thereof are hereby certified.



Matthew S. Skelton, Advisory Plan Commission Secretary

October 19, 2010

Date